

REMARKS

The restriction requirement in the present application is based on the Examiner's contention that the subject matter of claims 1-80 is directed to a first invention drawn to a data storage library and the subject matter of claims 81-88 is directed to a second invention drawn to a method of using a magazine based data cartridge library. Furthermore, the Examiner contends that invention [I] includes "Group A" which is drawn claims 1-28 and 60-70, "Group B" which is drawn to claims 29-42, "Group C" which is drawn to claims 43-59, and "Group D" which is drawn to claims 71-80.

Provisional Election With Traverse

Applicant provisionally elects to prosecute the claims directed to Invention [I] Group A, which include claims 1-28 and 60-70, with traverse, and without prejudice to prosecuting the Invention [I] Group D, in the present application or in a later application.

The Restriction Requirement Is Improper As It Pertains to Groups A and D

Applicant respectfully submits that the stated reason for the restriction requirement, that "In the instant case, each subcombination has separate utility such as used in a library without the particular structures existing in another subcombination as specified above" is incorrect and misapprehends the claimed invention as it pertains to Group A and Group D.

Group A is essentially directed to a grasping device and Group D is essentially directed to a grasping device and not to "a library having [merely] a first member, a second member and a means for operating connecting the first and second member."

Thus, Applicant respectfully submits that the basis for this aspect of the restriction requirement is erroneous, and that no showing has been made that the Group A and Group D claims are patentably distinct because the claims in each Group require no material element additional to those required by the claims in the other Group, each of which requires all the limitations of independent claims in Groups A and D. MPEP

806.04(d). Applicant respectfully requests that the claims in Group A and Group D be rejoined for examination.

* * *

Authorization To Charge Necessary Fees

The Commissioner is hereby authorized to charge any additional necessary fees associated with this submission, or credit any overpayment, to Deposit Account No. 50-3010.

Respectfully submitted,

Dated: 3/17/08



Kenneth Altshuler
Reg. No. 50,551

Correspondence Address
HISCOCK & BARCLAY, LLP
200 HSBC Plaza
100 Chestnut Street
Rochester, New York 14604-2404
Telephone: (303) 449-6444 x1251
Telephone: (585) 295-4497
Facsimile: (585) 295-8453

Customer No.: 67,070

PATENT TRADEMARK OFFICE